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UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,
Plaintiff

24-MJ-1204

Vs. Buffalo, New York
PETER CELENTANO, October 21, 2024
Defendant

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TRANSCRIPT OF DETENTION HEARING
BEFORE THE HONORABLE JEREMIAH J. MCCARTHY
UNITED STATES MAGISTRATE JUDGE

U.S. ATTORNEY'S OFFICE
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1 THE CLERK: All rise.

2 THE COURT: Good afternoon. Please be
3 seated.

4 THE CLERK: We are on the record in the
5 matter of United States of America versus Peter
6 Celentano criminal matter number 24-MJ-1204. We're
7 here for a detention hearing. For the Government, we
8 have AUSA Jeffrey Intravatola. The defendant is
9 present with attorney James Wolford. From the United
10 States Probation Office, we have Officer Andre McCrae.
11 The Honorable Jeremiah J. McCarthy presiding.

12 THE COURT: Good afternoon, again, everyone.

13 MR. INTRAVATOLA: Good afternoon.

14 MR. WOLFORD: Good afternoon, Your Honor.

15 THE COURT: You both received the pre-trial
16 services report dated October 18?

17 MR. INTRAVATOLA: Yes, Your Honor.

18 MR. WOLFORD: Yes, Your Honor.

19 THE COURT: All right. I apologize for the
20 confusion on Friday when I initially ordered Mr.
21 Celentano released and then on further reflection I --
22 I decided I needed to think about this a little more.
23 So that's why I ordered him detained. In light of the
24 pre-trial services report, I'll hear from whoever
25 wishes to be heard.

1 MR. INTRAVATOLA: Thank you, Judge. I've
2 also of course reviewed Probation's recommendation
3 here. The Government still strongly believes that
4 detention is appropriate. I don't believe Probation
5 made the recommendation with the benefit of them
6 having reviewed the defendant's social media posts.
7 Defendant had taken his social media down shortly
8 before law enforcement executed the state search
9 warrant so I don't think it would have been possible
10 for them to have reviewed the posts that I referenced
11 last week. And frankly, probation's determination and
12 I respect it --

13 THE COURT: Well, just a minute. Mr.
14 McCrae, you were present in the courtroom on Friday;
15 right?

16 OFFICER MCCRAE: That's correct, Judge.

17 THE COURT: Yeah. So you heard the proffer
18 --

19 OFFICER MCCRAE: Yes.

20 THE COURT: Concerning the social media
21 posts. Did that -- would that in any way effect your
22 recommendation?

23 OFFICER MCCRAE: No, Judge. After hearing
24 the proffer, that's the recommendation of our office.
25 We stand by our recommendation.

1 THE COURT: Okay. All right.

2 MR. INTRAVATOLA: Well, Judge, as I noted I
3 respect Probation's if not on the matter, and frankly,
4 I think their determination is not surprising because
5 to reference a few other posts by defendant he has
6 made social media posts that emphasize the benefit of
7 maintaining a public persona that does not attract the
8 attention of law enforcement. For instance on again
9 Twitter defendant --

10 THE COURT: Wait a second. Are you now
11 getting into additional posts that weren't proffered
12 on Friday?

13 MR. INTRAVATOLA: Yes, Judge. I confirmed
14 with law enforcement. I didn't have frankly every
15 single post. I've since provided them to defense
16 counsel anything that I would reference today, Judge.
17 I'm happy to also pass them up to Your Honor if you
18 are interested.

19 THE COURT: Okay.

20 MR. INTRAVATOLA: Would the Court prefer if
21 I do that?

22 THE COURT: Yeah, I'd like to see them. Do
23 you have extra copies?

24 MR. INTRAVATOLA: Yes, Judge.

25 THE COURT: Okay. Yes, please.

1 (There was a discussion off the record.)

2 MR. INTRAVATOLA: And Judge, some of these I
3 did go through. I'm not going to walk through every
4 single one.

5 THE COURT: Right. Okay.

6 MR. INTRAVATOLA: But I filed them for
7 purposes of today and I provided all of those to
8 defense counsel this morning. And so -- oh, I'm
9 sorry. There's a second page. Let me provide those
10 as well. Jim, I don't have another copy of these but
11 I did send them to you.

12 MR. WOLFORD: Yes, you did. Yes, you did.
13 I have copies. Thank you.

14 MR. INTRAVATOLA: And Judge, first I'm going
15 to read from the document that I just handed up to the
16 court. Now, Dr. Freeman 1337 is defendant's social
17 media handle. I can get into how law enforcement
18 determined that but ensure they went through their
19 investigation and they received a search warrant on
20 these social media platforms.

21 So to go back to what I was saying a few
22 moments ago about in person persona versus online
23 persona, you note you'll see on February 11 defendant
24 says people forget about the in person op sec. Op sec
25 is short for operations security.

1 THE COURT: Well, wait. Where are you on
2 this page?

3 MR. INTRAVATOLA: About a paragraph down
4 from the top, Judge. If you see kind of the circled
5 box of February 11.

6 THE COURT: Yes. Oh, I see. Okay. Okay.

7 MR. INTRAVATOLA: So defendant states people
8 forget about the in person op sec, operations
9 security. It's not just staying safe on the internet.
10 It's holding up the persona to your neighbors, in real
11 life friends and family that you are not committing
12 any big boy, and it goes on I believe to say felonies,
13 but I don't have the benefit of that.

14 However, we have a clue as to what he said
15 because he continues and the way that X works is you
16 can kind of respond to yourself, there's a character
17 limit. So if you see directly above that he says
18 adding onto this, in other words continuing that post.
19 He says don't put come and take it or other lettering
20 on your car if you are transporting unregistered NFA
21 items. Don't speed. Be a good and kind neighbor.
22 Don't outwardly act like an in sell to those who might
23 report you. Don't give people reason to suspect you.

24 And so Judge, that online persona is
25 concerning for us here. It's true that defendant has

1 no criminal history and leads a seemingly normal life
2 which I'm sure came across to probation but his online
3 persona remains deeply troubling.

4 THE COURT: How do you know it's his? Dr.
5 Freeman 13?

6 MR. INTRAVATOLA: Sure, Judge. Just a
7 moment. Basically the user name freeman 1337 was in
8 the initial call that an anonymous source made to law
9 enforcement when it kind of started things on this
10 investigation, Judge, and that initially tied
11 defendant to this Twitter account. Further, the
12 profile picture for defendant's social media accounts
13 match other firearms that were recovered from
14 locations that defendant hid evidence.

15 Additionally, the individual referenced in
16 the complaint known as MS confirmed that Celentano was
17 the user of the Twitter account. And so the
18 photographs that I have passed up today are recovered
19 from a search warrant that law enforcement executed on
20 the social media accounts as well as from other
21 observations that law enforcement had made of those
22 accounts prior to defendant's deactivation of them.

23 And so just to get back to defendant's
24 persona there, Judge, I recognize defendant has no
25 criminal history and that an individual's criminal

1 history is of course important to the Court's analysis
2 today. But that criminal history does not give a
3 complete perspective into an individual's mind. I
4 would submit that a more accurate picture of what's
5 going through defendant's head can be found in what he
6 says and what his persona is when he thinks he's
7 anonymous.

8 And so I had passed up that other piece of
9 paper, Judge, of the various posts. I'd just like to
10 go through a few more of those today and these have
11 all been provided to defense counsel. On page -- I
12 know that they're not numbered and I apologize.

13 THE COURT: Well, let me go to the first
14 page first.

15 MR. INTRAVATOLA: Some of these posts,
16 Judge, I did touch upon on Friday. This is a broader
17 combination of those and I'm happy to walk through
18 every single one if the Court would like.

19 THE COURT: Yeah. Why don't you do that?

20 MR. INTRAVATOLA: Okay. Sure, Judge. On
21 Page 1 we have a photo of an individual holding up
22 what looks to be a tweet, and it says ahem, fuck cops.

23 THE COURT: What does that have to do with
24 the defendant? Was that on his --

25 MR. INTRAVATOLA: Yes, Judge. Every single

1 one of these posts was made on defendant's Twitter
2 account the freeman 1337 that I referenced earlier.

3 THE COURT: Okay.

4 MR. INTRAVATOLA: I think the intent behind
5 that one is self explanatory so I'll move on. The
6 second post is what looks to be a clipping from a news
7 article, and of course, some of this, Judge, just to
8 clarify is of course my interpretation of what we are
9 seeing here.

10 THE COURT: Right.

11 MR. INTRAVATOLA: However, this is simply a
12 clipping of a news article which says criminals
13 exploit hobbyists who share tips on 3D printed guns.
14 Now, that's not necessarily nefarious post for people
15 or law enforcement but it ties defendant's interests
16 into 3D printed firearms. Next we have a screen shot
17 of a conversation again this was posted on his Twitter
18 which says would you sell a Glock lower? I don't want
19 to buy a 3D printer.

20 The individual who we believe to be
21 defendant says LOL that's a felony. No, can't do it,
22 but setting up an ender 3, in other words a device for
23 manufacturing privately made firearms, is pretty easy
24 and a printer is like \$200 for what it's worth. On
25 the next page, Judge, and I do remember referencing

1 this one on Friday we have an individual pointing a
2 gun and it says your rights are being stripped away by
3 people with names and addresses.

4 The following page depicts Homer Simpson
5 being hit over the head with a chair. Homer Simpson
6 is captioned American gun owners. Bart Simpson
7 holding the chair is captioned infringements for
8 protection. In the image below that, you have Homer
9 Simpson now holding the chair standing behind Bart
10 with the implication being that he's about to hit him
11 and Homer Simpson is captioned reasonable people
12 pushed to unreasonable. Bart is captioned big
13 Government thinking they did something.

14 On the next page, we have Twitter post that
15 states LOL fuck the AFT and their warnings. I'm here
16 to arm the masses. And so --

17 THE COURT: And you think that is from
18 defendant?

19 MR. INTRAVATOLA: Yes, Judge. That post
20 about arming the masses is tied to defendant based on
21 my explanation earlier and that one is particularly
22 notable here because he's saying he's here to arm the
23 masses. This is an individual who has demonstrated
24 expertise in how to privately manufacture firearms.
25 Law enforcement has seized the means that defendant

1 used to make privately manufactured firearms, the
2 printers, the various other types of tools for
3 assembling firearms and now you hear defendant in his
4 own words saying I'm here to arm the masses, and I'll
5 get back to that momentarily, Judge.

6 The next page notes -- it's a photo of Mr.
7 Rogers, the children's show host, and it's seemingly
8 nice image with rainbows and things and a stuffed
9 animal in front of him but the caption is if they send
10 one of yours to the hospital send six of theirs to the
11 morgue.

12 On the next page, you have a I'm going to
13 call it a monster posed behind an individual who looks
14 like they are either in law enforcement or a soldier
15 and the caption is when the Feds track you down to
16 your Appalachian cave home but you've been training a
17 actual fucking wendingo in guerilla warfare after
18 feeding him chicken tenders and Bang energy drinks for
19 the past six months.

20 And the next page, Judge, this is a post
21 that I didn't have a chance to highlight on Friday.
22 It's from the defendant's Twitter account and it says
23 for what it's worth, why even comply with New York or
24 California law? Interstate commerce laws being what
25 it is. What can those states' AGs do to you being in

1 Michigan if you choose not to comply with their
2 state's laws.

3 Following post is on a -- it's a screen shot
4 of a Reddit legal advice post, Judge, and it says is
5 it illegal to tell a cop to kill themselves? Just
6 wondering. On the following page you have a post from
7 defendant stating it's a photo of what looks to be a
8 firearm and defendant's caption is this is my
9 unregistered 50 caliber AR15 machine gun. No BG,
10 assuming that's background check, for it and I can
11 still hunt deer with it. Does this scare you more
12 than that little bitty 308?

13 On the next page, we have a ghost writing on
14 a chalk board, and this post -- this image is in
15 response to the post below that, Judge. The post
16 below that is from an account called the force and
17 it -- that post says civilians have no constitutional
18 right to military grade weapons period. The second
19 amendment is not a license to challenge law
20 enforcement or overthrow your Government. The second
21 amendment is for your own personal protection period.

22 And so defendant's post that he reposts is
23 it says that the second amendment is for shooting
24 cops. I think the intent behind that was self
25 explanatory, and if it wasn't, the following page is

1 another post from defendant which says AR15s are for
2 shooting cops and anyone else who attempts to step out
3 on liberty. This next page, frankly, I'm not entirely
4 familiar with what this one means. Although, I will
5 note that the bottom right corner of the image says
6 auto safety and that appears to be a firearm part.

7 And lastly, I believe this is the final
8 page, we have the defendant responding to an account
9 called Iron Wolf. Iron Wolf says murder isn't always
10 wrong. There are times when it's justified. Only the
11 sift on the absolutes, I believe that's a Star Wars
12 reference. I'm not saying abortion is morally okay
13 but the alternative in the case of rape victims is
14 worse in my opinion.

15 Now, the defendant responds to that saying
16 murder is always wrong. The majority of killing is
17 not in fact murder. And lastly, we have a post where
18 an account called weapons daily posts what looks to be
19 a heavily modified pistol with the caption is this
20 legal? Defendant responds who cares? Gun laws are
21 for pussies anyway.

22 And so Judge, that's just a sampling of what
23 defendant's online persona is. I think that gives
24 more of a perspective into defendant's thoughts than
25 what his public persona which he has extolled the

1 virtues of in other posts say to probation. And so on
2 the criminal history point and on the defendant's
3 background point, sure. Defendant doesn't have any
4 criminal history, but what he says when he thinks he's
5 anonymous and doesn't show his face is this fringe
6 extremist persona, and notably with respect to these
7 accounts and other accounts associated with defendant
8 that law enforcement has uncovered, he used VPNs which
9 I'm not a technology expert, Judge, but the purpose of
10 a VPN is to disguise an individual's online persona
11 online identity and your whereabouts online. And so
12 he uses VPNs to disguise himself in making these
13 posts. He also used an account called Proton Mail.
14 It's an encrypted email service that's made for
15 purposes of being anonymous online and so it's not
16 just defendants ideas here that he promotes on social
17 media, Judge. It's the reach that social media has.
18 It's the tech savviness that I mentioned on Friday,
19 the VPN that he posts -- or the VPN that he utilizes
20 to make sure that his posts are disguised. At least
21 he thinks they're disguised, but this reach that
22 social media has, these dangerous memes, these guns,
23 they offer a portrait into the defendant's mind, and
24 in fact, in 2022, Judge, the National Institute of
25 Justice put out a study. There were so many mass

1 shootings over the past few years, and so they began
2 to profile them and try to find commonalties, and many
3 mass shooters they study concluded are radicalized
4 online. That same study noted that approximately 45%
5 of mass shooters had no criminal history whatsoever.

6 And so for instance I would just highlight
7 Stephen Paddock who the Court may be familiar with as
8 the shooter behind the Las Vegas massacre. Paddock
9 was 64 years old, had no criminal history, Judge. He
10 used AR15 style rifles like many of the firearms
11 recovered here and he killed 60 people and wounded at
12 least 413 people. He was 64, Judge. He had no
13 criminal record, and news posts after that event, that
14 tragedy said things like family and neighborhood --
15 family and neighbors are shocked that he could have
16 killed dozens of people.

17 Judge, here, we have the benefit of all the
18 clues right in front of us. We have posts about
19 killing cops. Posts about AR15s like the ones in this
20 case being made for killing cops. Posts asking if
21 it's illegal to tell a cop to kill themselves amongst
22 many other concerning posts, and so this case involved
23 not just 59 machine guns but also the 200 privately
24 made firearms that law enforcement also seized and all
25 of that by its very nature is dangerous but I would

1 submit that defendant's views here are just as
2 dangerous and his skills here in making firearms which
3 the Government also seized are also dangerous. This
4 case involved all kinds of other items 3D printers,
5 tools, and defendant demonstrated his expertise in
6 making those firearms, and Judge, I know I touched
7 upon that but defendant lists on one of those sheets
8 that I provided to the Court that he's the developer
9 of the first working 3D printed 1911 A1 and that's a
10 style of pistol that he has determined -- the
11 defendant has I guess produced in a 3D printed
12 capacity that is kind of an imitation of an actual
13 firearm, the 1911 A1. And so defendant has developed
14 these schematics. It's not just that he knows how to
15 build them. He has a demonstrated expertise in
16 knowing how to do so, and so just compounding that
17 concern, Judge, there's a website called Odysee,
18 O-D-Y-S-E-E, and it's kind of a -- and I just learned
19 about this a few days ago. It's kind of a fringe
20 alternative video platform, an alternative Youtube, a
21 fringe website where people post all kinds of
22 concerning posts but in the defendant's posts he was
23 advertising what appeared to be his own designed 1911
24 A1.

25 And so this is plainly an individual who is

1 skilled in making firearms and if he's released on
2 conditions, Judge, that skill set doesn't simply
3 disappear and as I mentioned on Friday and I also just
4 reiterated earlier today, defendant makes posts about
5 arming the masses, and all of this information that
6 I've just presented to the Court and I recognize that
7 it's kind of a lot to digest, it becomes
8 ex-potentially more troubling when you consider that
9 there's no way of knowing whether or not law
10 enforcement has seized every single firearm in this
11 case because as noted -- and I believe I misspoke on
12 Friday when I said this, Judge, but as noted defendant
13 took steps to hide firearms prior to the execution of
14 law enforcement executing the warrant.

15 I believe on Friday I said he did so after.
16 I believe he took steps to conceal the firearms prior
17 to the execution of the warrant, and so sure. Law
18 enforcement seized numerous firearms in this case,
19 numerous machine guns and all sorts of other parts,
20 but there's no way of knowing that defendant wasn't
21 successful in secreting away additional firearms. We
22 already know that he has utilized at least three
23 locations where he hid firearms and there's no way of
24 knowing that this individual who promotes these fringe
25 anti law enforcement anti Government views also didn't

1 hide firearms in other places.

2 And I know on Friday, Judge, that
3 defendant -- defense counsel kind of addressed the
4 weight of the evidence so I'd just like to kind of
5 walk through some of that as well for the Court's
6 benefit. It is significant in this case. The weight
7 of the evidence is significant. Law enforcement found
8 the following in defendant's home. 3D printed pistol
9 frames, firearm parts and accessories, ammunition and
10 reloading equipment, various tools and other equipment
11 for making his firearms at home and two machine gun
12 conversion devices, and as for the additional firearms
13 that I referenced that he had secreted away in other
14 places, I believe defense counsel attempted to
15 challenge whether or not those were actually
16 defendants, but I would note that his possession of
17 them is corroborated in a few ways.

18 First, defendant's social media accounts
19 also posted additional firearms and firearm
20 manufacturing equipment which is what peaked the
21 Government's interest in the first place because they
22 said these aren't all the firearms that he was showing
23 on social media so where are those after they executed
24 the state search warrant. That's what led them to
25 review his tracking activity and his geologic

1 activity -- geographic activity, and so that's kind of
2 what clued them in that he may be secreting firearms
3 in other places.

4 Those firearms that he posted on social
5 media matched many of the firearms that law
6 enforcement recovered and equipment that they
7 recovered elsewhere, and I would also note that law
8 enforcement found that first stash location with the
9 RV that's referenced in the complaint that had many of
10 the firearms. They found that because they had the
11 tracker warrant and so they knew where defendant went.
12 That's how they knew to go to that address, and
13 defendant stayed there I believe it was approximately
14 40 minutes, Judge, and that was unusual to law
15 enforcement. That's why they went there.

16 And again, at the end of the day, at least
17 three different individuals told law enforcement that
18 the various firearms found were defendants. I don't
19 believe that's a coincidence, and I just learned today
20 that law enforcement has also obtained cell site
21 information which corroborates at least one of those
22 individuals accounts that they provided to law
23 enforcement. And finally, in those boxes, Judge, that
24 law enforcement found, and I'm happy to provide photos
25 of those as well, there were things that were tied to

1 defendant. There were packages with postal marks with
2 his name on them.

3 And so I don't believe this is a
4 coincidence, Judge. And if I could just conclude, we
5 also have all these individuals who were seeing
6 defendant's social media posts, kind of an audience so
7 to speak, but it's not just that. I know that we just
8 charged a single count in the complaint, Judge, but
9 there's also evidence partially provided by some of
10 these individuals who tied these firearms to defendant
11 but defendant transferred firearms. The firearms that
12 were found at the bottom of the Erie Canal, I believe
13 it was MS had stated that defendant had provided those
14 to him.

15 That's an additional crime. That could be
16 charged later on, and so there are instances where
17 defendant transferred firearms which means if MS was a
18 recipient of firearms why -- why is it not reasonable
19 to believe that there are his additional customers
20 here and an uncharged customer base, and this
21 investigation is still of course in its early stages
22 and there may still be other individuals out there who
23 defendant has provided firearms to.

24 And so for those reasons, Judge, I would
25 submit that there is clear and convincing evidence

1 that the defendant represents a danger to the
2 community, and given the substantial penalties that he
3 will be facing and the weight of the evidence in this
4 case and defendant's clear and disturbing disdain for
5 federal law enforcement and federal laws, the
6 Government has also shown by a preponderance of the
7 evidence that defendant represents a flight risk.
8 Thanks, Judge.

9 THE COURT: Thank you. Mr. Wolford?

10 MR. WOLFORD: Yes, Your Honor. Well, I
11 guess getting to tying my client to the Twitter
12 account, I heard that there was an anonymous call
13 tying him to the Twitter, a photo and the initials MS.
14 I didn't hear that my client's phone or any other type
15 of identifying characteristic ties my client to these
16 posts.

17 The instance of the social media posts, I
18 guess my confusion is we have two individuals just
19 getting to MS and I guess the other individual I'll
20 just initial here BM, is once again -- and it was
21 brought up and I'm going to harp on it is we have two
22 individuals who may be -- and we have information,
23 we're going to try to dig down on it, they may be
24 manufacturing ghost guns on their own and to as I said
25 before point the finger at my client is an easy point.

1 So I once again question the credibility of these two
2 individuals.

3 Now, I'm not condoning any of the posts that
4 are on what the Government has set-up for the court.
5 I'm just identifying that trying to tie that to my
6 client I have yet to hear that. It's speculation once
7 again. Initials, profile photo and an anonymous tip.
8 That's all we have. I'm sure they were busy all
9 weekend trying to dig down and try to verify the
10 connection and that's what we have. And so in my
11 opinion they have not met the threshold for
12 establishing and at least tying that to my client.

13 Now, as I said, if we need to dig down and
14 we went through all of these posts and I'm not going
15 to say as I said before condone these, but on Friday
16 the Government with reference to the photo where it
17 says your rights are being stripped away by people
18 with names and addresses, on Friday referred to
19 federal agents as for what this post represented. I
20 don't see how that is going after federal agents, and
21 once again, speculation on the Government's part to
22 try in my opinion to inflame the situation to prevent
23 my client from being released.

24 And the distribution allegation I'm going to
25 get to the next exhibit or the next post here where it

1 says I'm here to arm the masses. Once again, I
2 question the connection between this account and my
3 client, but now we're now hearing that there's proof
4 of distribution because another individual identified
5 in the affidavit when asked what did you do with the
6 gun says oh, I threw them in the canal and it's from
7 my client.

8 Once again convenient, but that's the only
9 allegation or piece of evidence we have of
10 distribution? With all the forensic auditing and what
11 we can go through. They took my client's entire
12 computer, all of his computers all of his house. We
13 don't have a link of this is what we found on my
14 client's computer. I wouldn't be arguing that point
15 if the Government was proffering that they found this
16 on my client's computer. They're speculating that
17 this is my client's Twitter account.

18 And once again, speculating when they
19 question someone what did you do with the guns, oh,
20 they're Peter's guns. Oh, okay. Once again,
21 convenient. Speculation. Going through some of these
22 other posts, the one -- and I guess the post where
23 FWIW, why even comply with New York or California law,
24 interstate commerce clause being what it is, what can
25 those state AG's do to you being in MI if you choose

1 not to comply with their state of laws. I guess I'm
2 missing what's wrong with a post like that. If it's
3 coming from my client's, I guess it's wrong to even
4 put those types of things according to the Government
5 on a Twitter account.

6 But what I've heard are concerns from the
7 Government that can be addressed quite frankly in
8 pre-trial report and recommendation of release. The
9 first of which is condition nine about the computer
10 internet monitoring program. So the fact that the
11 Government's concerned that my client once he's
12 released is going to go onto the internet and start
13 arming the masses and start getting something going is
14 prohibited very clearly and is going to be monitored
15 by the U.S. Probation.

16 One of the concerns I note for the
17 assessment of danger was the pistol permit has
18 firearms. My understanding is the pistol permit and
19 the pistols were seized by law enforcement. The
20 firearms, there was eight long guns that were locked
21 up in a safe. They have since been removed from the
22 house from my client's wife's father who is a retired
23 police officer from Batavia.

24 And I would note that I know we've heard a
25 lot of rhetoric about my client hating law

1 enforcement. His brother is an FBI agent and is
2 stationed down in the Manhattan bureau. My client has
3 a relationship with his brother, in fact went to one
4 of his promotional ceremonies. As I just mentioned,
5 his wife's father is a retired Batavia Police Officer
6 and I believe his uncle is also retired law
7 enforcement officer, and he has relationships with all
8 of those individuals and is -- so I think there's
9 always some -- two sides to every story, and I think
10 that little indication I think goes along way in my
11 opinion.

12 And if the Government is concerned that my
13 client is going to run out of his house if he's
14 released and go and seize some of the firearms that
15 they didn't seize, and I would note that they've
16 seized -- they went to my client's house, they went to
17 two other houses, they went to an RV, they followed my
18 client prior to the execution of the search warrant,
19 they found those firearms they claim my client posted
20 on social media, but they still have a concern, then a
21 home confinement type of a condition would obviously
22 alleviate any of those types of fears and probation
23 would know where my client went 24/7.

24 He works at Amazon. He's on vacation short
25 term disability leave. He would be more than happy to

1 comply with whatever condition the Court and pre-trial
2 release come up with to monitor him for that condition
3 as well. So those two conditions in my opinion would
4 alleviate any of the fears and dangers that were
5 raised by the Government which I do not agree with and
6 I dispute vehemently, but even if they were true,
7 there's those two conditions that would find a less
8 restrictive means than detaining my client during the
9 pendency of this case. Thank you, Your Honor.

10 THE COURT: Okay. Thank you. Mr.
11 Intravatola, back to this Dr. Freeman 1337. How do
12 you tie that in with the defendant?

13 MR. INTRAVATOLA: A few different ways,
14 Judge. First --

15 THE COURT: And let me preface that by
16 saying what Mr. -- I guess what's most disturbing to
17 me and people are -- in this country they're entitled
18 to their own ideas whether they like the Government or
19 not. I'm not going to punish them for that, but I am
20 concerned when it -- when it escalates to the
21 statement of hate cops and manufacturing firearms.

22 That gives me concern, but now Mr. Wolford
23 says his brother is an FBI agent and his father-in-law
24 is a retired police officer. So I guess I'm really
25 wondering how do you tie in this Dr. Freeman to

1 defendant or that they're one and the same?

2 MR. INTRAVATOLA: Sure, Judge. Well, first
3 I'll start with how we tie the account to defendant,
4 and I would also note that the federal agents are here
5 today so if the Court requires more clarification I'm
6 happy to confer with them, but I'll tell you as best
7 as I understand the investigation.

8 First, that name didn't just pop out of the
9 blue, Judge. That's what the anonymous tip to law
10 enforcement said. They said freeman and the following
11 numbers after it were Celentano's Twitter account. I
12 understand that by itself maybe not a ton of weight
13 but that's where we get started. Then the profile
14 pictures with that account matched other firearms that
15 law enforcement seized in this case. I believe -- I'm
16 going to butcher the breed here, Judge, but I think it
17 was a lambda that was stamped on the icon for the
18 social media account and then that was stamped on
19 certain of the privately made firearms.

20 Then defendant's acquaintance who was
21 referenced in the complaint MS also confirmed that
22 Celentano was the user of the Twitter account. And so
23 that's kind of where the photographs were provided.
24 I'm happy -- there may be additional details that I'm
25 missing. I'm happy -- if the Court would find that

1 useful, I'm happy to confer with the agents right now,
2 but that's kind of my understanding of how they ended
3 up tying the account to defendant.

4 Next, with respect to Your Honor's question
5 about, you know, defendant's family who works in law
6 enforcement, defendant has said it himself, Judge. Be
7 a good and kind neighbor. Don't give reasons for
8 people to suspect you. I have no doubt that
9 defendant's public life, defendant's family,
10 everything about defendant checks out when he knows
11 people are looking.

12 What is concerning to us is his private
13 persona. What does he say when he thinks he's
14 anonymous? What does he think when he thinks he's
15 anonymous? That's where the clues are, Judge, and
16 what does he say? Well, on that account you saw fuck
17 cops, AR15s are for killing cops. That's the type of
18 stuff, and I recognize, sure, having family members
19 that work in law enforcement first of all is not
20 uncommon but it's also not dispositive when it comes
21 to my father is a Batavia Police officer, my brother
22 works down in New York City. It doesn't mean that an
23 individual can't also have destain for other law
24 enforcement members, and defendant said in his own
25 words, I won't go all the way back to the internet

1 posts but I believe there was a post that said fuck
2 the AFT which meant ATF, and so sure, there could be
3 isolated individuals who defendant does not want to
4 kill, but that doesn't mean that it can't also be true
5 that generally speaking an individual does not like
6 law enforcement and members of law enforcement.

7 THE COURT: You --

8 (There was a discussion off the record.)

9 THE COURT: And Judge, that was just a
10 commentary from the agents who conferred with my
11 colleague. Some of the firearms that were also
12 reflected in the social media posts match the items
13 that were recovered, and additionally, there were
14 certain videos posted on social media. I have not
15 reviewed those. This was just provided to me just now
16 by the agents, but the geo located footage and in the
17 footage it's clear that the area in which defendant
18 was located matches -- the area in which defendant was
19 located, Judge, I believe was outside. Law
20 enforcement was able to match that to the video and to
21 where, you know, defendant's whereabouts.

22 Additionally, I believe at least one video
23 my colleague has just mentioned that it was actually
24 in fact matching the depiction of defendant's bedroom,
25 and so all of those factors, Judge, together would

1 seem to strongly indicate that this individual was
2 defendant, and I recognize that, you know, there were
3 certain burdens at this stage of the case. There's
4 certain burdens later in the case. I'd be happy to
5 further demonstrate that to the Court if this case
6 were to progress to that level, but I would submit to
7 you, Judge, that that is entirely in satisfaction of
8 the clear and convincing evidence that we need at this
9 point in the case.

10 And Judge, I forgot to mention one other
11 point with respect to comments that defense counsel
12 had about one of posts. You know, he said none of
13 that necessarily is pointing to ill intent towards
14 federal agents, that there was the photo of the guy
15 pointing the gun, people with names and addresses are
16 taking your freedom away. Well, Judge, I would just
17 note that I'm sitting here today before you making my
18 best effort to help curtail defendant's freedom.
19 That's what I'm doing here, and that's what that post
20 is about.

21 And so I would just ask for the Court
22 respectfully to consider all of that in making its
23 determination because I'm sure the Court doesn't
24 typically experience these types of in depth detention
25 hearings, and we are fighting this hard, Judge, and

1 it's because I believe there is a real danger here.
2 And it's my duty to go -- to stand here before you and
3 to advocate for detention because of these concerning
4 things that we saw online.

5 THE COURT: No. I understand that, and by
6 the same token, defendant's liberty is at stake right
7 now at least at the preliminary stage, and I -- you
8 know, before I can find something by clear and
9 convincing evidence I'll tell you I'm very concerned
10 by the posts for this Dr. Freeman PHD, but I think I
11 need to hear more. Perhaps you say you have the
12 agents here?

13 MR. INTRAVATOLA: Sure.

14 THE COURT: If they can tie it in, I want to
15 hear that, and I'll give Mr. Wolford an opportunity to
16 question them as well.

17 MR. INTRAVATOLA: If I might just have a
18 moment, Judge, I'll speak with them.

19 THE COURT: Certainly.

20 MR. INTRAVATOLA: Thanks.

21 (There was a pause in the proceeding.)

22 MR. INTRAVATOLA: Apologies, Judge. It's of
23 course a developing situation so --

24 THE COURT: No problem.

25 MR. INTRAVATOLA: -- I'm learning things as

1 well.

2 THE COURT: No problem.

3 MR. INTRAVATOLA: There's five main points
4 I'd like to make just when it comes to tying defendant
5 to social media in addition to what I just said.

6 THE COURT: Yeah, but what I just indicated
7 is that I want to hear from these folks themselves.

8 MR. INTRAVATOLA: Oh.

9 THE COURT: You're relating to me what
10 they've told you, but I think in fairness in many
11 detention hearings perhaps in most detention hearings
12 --

13 MR. INTRAVATOLA: Sure.

14 THE COURT: -- there is not actual testimony
15 taken but there can be, and I think this is one of the
16 cases in which I would direct that.

17 MR. INTRAVATOLA: I'm happy to do that right
18 now, Judge, if I could.

19 THE COURT: Well, let me ask Mr. Wolford.
20 Do you want to proceed on that today? Or do you -- I
21 can hold this open but I'm --

22 MR. WOLFORD: I want to proceed obviously if
23 my client's going to be detained pending this.

24 THE COURT: Okay. Fine.

25 MR. INTRAVATOLA: Judge, there's one thing I

1 want to note. Sorry to interrupt you. Of course I
2 have discovery obligations in this case. I'd like to
3 opportunity to comply with my Jenks and other
4 discovery obligations. Maybe it makes sense for us to
5 adjourn today. I'm happy to proceed. However, I
6 really think it would be -- we would be most
7 comfortable from a constitutional perspective if I
8 could comply with my other discovery obligations
9 before we began putting witnesses on the stand.

10 THE COURT: What do you want to do?

11 MR. WOLFORD: If my client gets released
12 then -- today then --

13 THE COURT: I'm not releasing him today.

14 MR. WOLFORD: -- I'm all in favor of that.

15 THE COURT: Well, put it this way. As I sit
16 here right now, I'm not inclined to release him, but
17 as I indicated, a lot of my concern has to do with
18 whether defendant is in fact the same individual as
19 this Dr. Freeman, and that's what I want to focus on
20 in the testimony. So we can start that today. If you
21 have Jenks obligations, I guess if Mr. Wolford wants
22 to start today because it wasn't clear to anybody that
23 I would want actual testimony.

24 MR. WOLFORD: Sure.

25 THE COURT: But now I'm saying I do. So you

1 can provide that down the road I guess and we'll hold
2 it open. So.

3 MR. INTRAVATOLA: Perhaps it makes sense,
4 Judge. I'm just thinking about the types of
5 disclosures we would need to make. Perhaps it makes
6 sense to adjourn for a few days and we have the -- one
7 of the agents swear out an affidavit kind of outlining
8 the Court's specific question there because that, you
9 know, ultimately would be a sworn statement by the
10 defendant -- or sorry, by the Government. I would be
11 able to provide that to defense counsel, and perhaps
12 that would alleviate the Court's concerns specifically
13 with respect to tying defendant to that account.

14 THE COURT: Are you saying an affidavit
15 without the possibility of cross examination?

16 MR. INTRAVATOLA: Well, Judge, I guess a
17 better way for me to describe it would be we file this
18 affidavit, we call the agent to the stand, and then
19 defendant would be able to cross examine and also have
20 the benefit of that affidavit if that makes sense for
21 the Court.

22 THE COURT: Yeah. Okay. Well, back to you,
23 Mr. Wolford. This -- I don't believe this -- no, I'm
24 certain this is not going to be resolved today so I'm
25 going to hold this open, but we can start today and

1 continue later this week, whatever day works for
2 everybody. We can do the affidavit or we can get
3 right into it today. Your call.

4 MR. WOLFORD: Let's get into it today.

5 THE COURT: Pardon?

6 MR. WOLFORD: Let's get into it today.

7 THE COURT: All right.

8 MR. INTRAVATOLA: Your Honor, the Government
9 calls Special Agent John Nowak with ATF.

10 THE COURT: And again, just so we're
11 clear -- up here, sir. Jeff, just so we're clear,
12 what I want testimony on is how the Government ties
13 the defendant into this Dr. Freeman 1337 PHD. Okay.

14 MR. INTRAVATOLA: Yes, Your Honor, and if I
15 could just make my record, I'm just trying to be
16 exceptionally careful here with our respect to our
17 disclosure obligations.

18 THE COURT: I understand.

19 MR. INTRAVATOLA: I would note for the
20 record that we have not yet provided any discovery or
21 Jenks material to defense counsel. We're happy to do
22 that. We'll work on doing that immediately after the
23 hearing and over the next day or so. If I could
24 briefly have one moment to have a candid conversation
25 for purposes of Giglio with the agent.

1 THE COURT: Sure.

2 MR. INTRAVATOLA: To make sure that he --

3 THE COURT: Sure. Go ahead.

4 MR. INTRAVATOLA: Sure.

5 (There was a discussion off the record.)

6 THE COURT: Go ahead. Thanks.

7 MR. INTRAVATOLA: And Judge, I just note for
8 the record I just had a candid conversation with
9 Special Agent John Nowak. He has indicated to me that
10 he has had no issues with his credibility or negative
11 disciplinary findings or anything to that effect.

12 THE COURT: Okay.

13 MR. INTRAVATOLA: And so with that, we're
14 comfortable to proceed at this preliminary stage.

15 THE COURT: Okay. Thank you.

16 MR. INTRAVATOLA: Good afternoon, sir.

17 THE WITNESS: Good afternoon.

18 THE COURT: You have to -- he has to be
19 sworn.

20 THE CLERK: We have to swear the witness,
21 please. Could you raise your right hand, please?

22 J O H N N O W A K, after having been duly
23 called and sworn, testified as follows:

24 THE CLERK: Thank you. Can you please state
25 the name for the record.

1 THE WITNESS: John Nowak, J-O-H-N N-O-W-A-K.

2 DIRECT EXAMINATION BY MR. INTRAVATOLA:

3 Q. And sir, what do you do for a living?

4 A. I'm a special agent for the ATF.

5 Q. And how long have you worked that job?

6 A. Since January of 2021.

7 Q. As part of your role as a special agent with ATF,
8 do you work certain investigations within your office?

9 A. Yes, I do.

10 Q. I'd like to draw your attention to the
11 investigation of Peter Celentano. Are you familiar
12 with that investigation?

13 A. Yes, I am.

14 Q. Have you taken investigatory steps in that
15 investigation?

16 A. Yes, I have.

17 Q. Are you familiar with steps that other law
18 enforcement officers have taken in this investigation?

19 A. Yes, I have.

20 Q. Are you comfortable with testifying as to steps
21 that other investigatory -- that other investigators
22 have taken on this investigation?

23 A. Based on what I'm aware of.

24 Q. Understood. And you've been here in court today,
25 Mr. Nowak; correct?

1 A. Yes, I have.

2 Q. And did you hear that there was a certain proffer
3 made by the Government with respect to defendant Peter
4 Celentano's tie to a social media account?

5 A. I have, yes.

6 Q. And was that social media account freeman
7 followed by several numbers?

8 A. That is correct.

9 Q. Okay. And just for the record, that would be
10 freeman 1337?

11 A. Correct.

12 Q. Is that correct? Now, the Court -- did you hear
13 the Court --

14 THE COURT: Wait a second. The documents
15 that you proffered also say @freeman13372.

16 THE WITNESS: That's correct, Judge.

17 MR. INTRAVATOLA: Apologies, Judge. I
18 misspoke. There was an additional --

19 Q. Was there an additional digit that I had omitted
20 --

21 A. There was.

22 Q. -- Agent Nowak? Okay. And so is it fair to say
23 that the entire handle for defendant is freeman13372?

24 A. That is correct.

25 Q. Now, did you hear the Court earlier inquire about

1 how law enforcement was able to tie this account to
2 the defendant, Peter Celentano?

3 A. That's correct.

4 Q. Are you familiar with the steps with how the
5 Government did that and law enforcement did that?

6 A. Yes, I am.

7 Q. Could you testify to those here today?

8 A. Yes, I can.

9 Q. Can you please walk the Court through those
10 steps?

11 A. Absolutely. So initially, this started with a
12 complaint through a 911 caller. The 911 caller
13 specifically referenced Peter Celentano in relation to
14 freeman13372. That's how initially we got the lead on
15 it. Another investigator utilized a undercover
16 Twitter account to preserve different posts from the
17 freeman13372, and further, that's where it started
18 from.

19 The search warrant was made for that
20 account. It came back with no subscriber information
21 to which furthermore peaked our interest. We weren't
22 sure who it was, but on that account there were videos
23 of an individual shooting firearms, some that were 3D
24 printed. They were very colorful, and there were
25 continuous posts about the -- what was earlier stated

1 the 1911 firearm or model. It was so named on the
2 Twitter account as okay boomer.

3 There was another link that brought you from
4 that -- from that Twitter account to another page to
5 essentially stating that the okay boomer 3D printable
6 firearm that the file was coming soon. From then on,
7 (inaudible) speaking but we went from we initiated the
8 search warrant at the house. We identified the room
9 that that social media account had posted multiple
10 photos of a workbench and additional firearms that
11 were on top of this workbench. That was observed in a
12 room with -- I don't have the photos in front of me so
13 I can't specifically say, but the room that the
14 workbench was in matched the room that we observed
15 when we executed the search warrant.

16 From that search warrant, that's when we
17 recognized that some of the items we were looking for
18 were not in there. They must be somewhere else
19 because the bench was missing as well as the multi
20 colored firearms that were on top. That's what led us
21 to the additional location at Lakeshore, and then it
22 led us to we've been referring to as MS referred us to
23 that house as well, that source.

24 That source identified not only that Mr.
25 Celentano was the user of freeman13372, that he also

1 went on to explain that he knew he liked to keep the
2 firearms that were on his desk in a some what rainbow
3 pattern because he had multiple colors of these 3D
4 printed firearms.

5 Q. Agent Nowak, you referenced earlier some videos
6 of an individual shooting; do you recall that?

7 A. Yes.

8 Q. Was law enforcement able to determine -- were
9 those videos outside?

10 A. Yes, they were.

11 Q. Was law enforcement able to determine where?

12 A. Yes. I'm not familiar with the range, but based
13 on other investigators, they -- they were able to
14 recognize the range that was -- these firearms were
15 being tested or shot at that were posted on the social
16 media account and they recognize it to be within the
17 area of Genesee County.

18 Q. Now, moving --

19 A. I believe it was called Godfrey's Pond, but I'm
20 not 100% sure.

21 Q. Agent Nowak, do you recall that I provided the
22 court with various photos earlier?

23 A. Yes.

24 Q. Was one of those photos depicting an AR15? Do
25 you recall that?

1 A. Yes, I do.

2 Q. And I believe the caption was something to the
3 effect of I can still hunt deer with this. Something
4 in sum and substance?

5 A. I believe so.

6 THE COURT: It would be easier to just show
7 him the photo. By the way, I'm going to mark your
8 first packet of photos beginning with this photo, your
9 first packet that you stapled, that would be Court
10 Exhibit 1.

11 MR. INTRAVATOLA: Understood. Thank you,
12 Judge.

13 THE COURT: And then the second packet
14 beginning with a post at the top and then Dr. Freeman,
15 it's two pages, that will be Court Exhibit 2.

16 MR. INTRAVATOLA: Understood. Thank you,
17 Judge.

18 Q. Agent Nowak, I have here what is Court Exhibit 1.
19 Your Honor, I'm showing defense counsel the --

20 MR. WOLFORD: Just what you had earlier?

21 MR. INTRAVATOLA: Yes.

22 MR. WOLFORD: Yeah.

23 MR. INTRAVATOLA: Your Honor, this is
24 page -- this is Page 10, Your Honor, of Court's
25 Exhibit 1. May I approach the witness?

1 THE COURT: Yes.

2 Q. Agent Nowak, do you recognize this document?

3 A. Yes, I do.

4 Q. Are you familiar with it?

5 A. Yes, I am.

6 Q. Is it fair and accurate and consistent with your
7 investigation in this case?

8 A. Yes, it is.

9 Q. In fact, did you provide that image to me?

10 A. That's correct.

11 Q. And what is it depicting?

12 A. It is depict -- it's an AR style firearm and it's
13 also a machine gun.

14 Q. Um --

15 A. Presumed to be a machine gun.

16 Q. Agent Nowak, was that firearm recovered in this
17 case?

18 A. In pieces, it was. Yes.

19 Q. In your training and experience, have you
20 reviewed numerous firearms as being an agent with ATF?

21 A. Yes, I have.

22 Q. Is that a common firearm to have?

23 A. It is not.

24 Q. Why is that?

25 A. I wouldn't say that it's not common. I would

1 specifically state that the accessories on it make it
2 more unique.

3 Q. Why is that?

4 A. By my stating, I see that there's a fore grip on
5 it and there's like two what I refer to as rail scales
6 on the side of the firearm, and we recovered an upper
7 with similar to exact parts as well as -- as well as
8 that lower. But I mean, I don't know if it
9 specifically used this lower because again it was
10 broken apart.

11 Q. Understood, but do they resemble the certain
12 items that law enforcement recovered in this case?

13 A. Yes.

14 Q. Okay. I can take that back. Just a few more
15 questions, Agent Nowak. You referenced your
16 familiarity with other law enforcement agents
17 investigations on this case; correct?

18 A. That is correct.

19 Q. Is another agent on this case -- apologies --
20 another officer on this case Officer Ryan?

21 A. Yes, Ryan DeLong. He's an investigator with
22 Genesee County Sheriff.

23 Q. Are you aware if Mr. Ryan had a discussion with
24 defendant's wife?

25 A. From my understanding, yes. There was a -- there

1 was an interview with Investigator DeLong as well as
2 John Clark from State Police with the defendant's
3 wife.

4 Q. And when was that?

5 A. That was the day of the search warrant. The
6 search warrant of the residence.

7 MR. INTRAVATOLA: And Judge, I would just
8 note I imagine for purposes of this hearing hearsay is
9 admissible?

10 THE COURT: Yes.

11 Q. Did Officer Ryan learn anything regarding the
12 defendant from defendant's wife?

13 A. Yeah. Investigator DeLong, he spoke with the
14 defendant's wife, and I believe some videos were
15 provided to the defendant's wife that confirmed that
16 was of Peter from the social media accounts.

17 Q. And so just to clarify, investigators asked
18 defendant's wife if an individual depicted on videos
19 from the freeman social media account were defendant
20 and she confirmed that they were?

21 A. I would believe so -- I believe so, yes.

22 Q. And just -- just lastly, are you familiar with
23 any lawsuits that defendant has been involved in?

24 A. Yes, I am.

25 Q. And did those lawsuits tie the social media

1 account to defendant in any way?

2 A. Yes, it did, and that's actually why we believe
3 the social media account was further deleted. The
4 social media account freeman1337 was tied to Peter
5 Celentano in a civil suit. He was served civil papers
6 I want to say the Wednesday or Wednesday prior to --
7 to us executing the search warrant.

8 Q. And --

9 THE COURT: The search warrant was executed
10 on September 29; is that right?

11 THE WITNESS: That's correct.

12 THE COURT: Yeah.

13 Q. And do you recall who the plaintiff was in that
14 lawsuit?

15 A. The plaintiff was Peter Celentano AKA
16 freeman13372.

17 Q. Counsel, is it fair to say that was the name of
18 the defendant in the lawsuit?

19 A. Yes. That's what I meant, sorry.

20 Q. Who was the plaintiff in the lawsuit, the person
21 suing the defendant?

22 A. It was free -- free something.

23 Q. Is it fair to say it was a gun control advocacy
24 group?

25 A. Yes.

1 Q. Would it refresh you if I told you it was every
2 town for gun safety?

3 A. Yes, it would.

4 Q. Something to that effect?

5 A. Yes.

6 Q. And so every town for gun safety was the
7 plaintiff in the lawsuit?

8 A. Yes.

9 Q. And Peter Celentano was the defendant in that
10 lawsuit?

11 A. That's correct.

12 Q. And did I hear you say earlier that that lawsuit
13 also listed the freeman social media handle as --

14 A. That is correct. I don't know if he was the
15 defendant. I believe he may have been -- may have
16 been addressed as a witness in it, but it -- it
17 furthermore identified Peter Celentano as
18 freeman13372.

19 Q. Did it say something along the lines of Peter
20 Celentano AKA freeman followed by those numbers?

21 A. That is correct.

22 Q. Okay. I've got no more questions for you at this
23 point. Actually, if you don't mind, just one moment.

24 (There was a pause in the proceeding.)

25 Q. Just a few more questions, Agent Nowak. Is it

1 fair to say you didn't anticipate testifying here
2 today?

3 A. That's correct.

4 Q. I'm sorry for that. You are probably regretting
5 that you came to court today.

6 THE COURT: You can blame me.

7 Q. Is it fair to say that you didn't review every
8 single one of your notes prior to this testimony?

9 A. That would be correct.

10 Q. And is that because in some ways surprised you by
11 putting you on the stand?

12 A. Correct.

13 Q. And if you had reviewed your notes and other
14 facets of this investigation, would you have been able
15 to testify further as to the investigatory steps in
16 this action?

17 A. Yes I would have.

18 Q. Okay.

19 MR. INTRAVATOLA: Your Honor, I have no
20 further questions at this point.

21 THE COURT: Thank you.

22 MR. WOLFORD: All set?

23 CROSS EXAMINATION BY MR. WOLFORD:

24 Q. Afternoon, Agent.

25 A. Good morning -- or afternoon.

1 Q. This subscriber information you indicated that a
2 search warrant came back with no subscriber
3 information; correct?

4 A. That's correct.

5 Q. What's typically on a subscriber information that
6 would come out from a search warrant?

7 A. It will have like first name last name basis and
8 emails. That's where we got that proton email from.

9 Q. Okay. What else would be on the subscriber
10 information? You'd have name. What about phone
11 number?

12 A. Name and phone number would generally come back
13 as well.

14 Q. Okay. Email?

15 A. Correct.

16 Q. What else?

17 A. I'm not sure.

18 Q. But nothing came back indicating that Peter
19 Celentano was the registered subscriber to that
20 Twitter account from that search warrant; correct?

21 A. Not directly, no.

22 Q. I'm sorry?

23 A. Not directly. No, sir.

24 Q. Now, at the house of my client, a number of his
25 computers were taken; correct?

1 A. That's correct, sir.

2 Q. Have those been reviewed or looked for for this
3 particular Twitter account?

4 A. I believe Genesee County Sheriff or the New York
5 State Police may be working on that.

6 Q. But to your knowledge as you sit here today, you
7 haven't heard that they discovered this particular
8 Twitter account on any of the computers that were
9 seized from my client's home?

10 A. At this time, no.

11 Q. Now, you would agree with me that Twitter
12 accounts store certain information on an account;
13 correct?

14 A. I'm not very tech savvy but --

15 Q. Okay.

16 A. Yes.

17 Q. But what about the internet or the internet
18 address connected to the Twitter account? Wouldn't
19 that be something that would be discoverable?

20 A. I'm not familiar.

21 MR. INTRAVATOLA: Your Honor, I'm going to
22 object. The witness is not an expert with respect to
23 the intricacies of Twitter merely -- not merely. He's
24 a law enforcement officer who reviews the returns.

25 THE COURT: This is cross examination. He

1 can say he doesn't know if that's the case. Go ahead.

2 Q. Do you remember the question?

3 A. Something about the internet and the address.

4 Q. Let me rephrase it. The search warrant didn't
5 come back showing that there was an internet address
6 connected to my client; correct?

7 A. I'm not sure.

8 Q. It didn't have -- as you indicated, there was
9 nothing directly linking my client to talking about
10 the search warrant on Twitter?

11 A. It was not my search warrant.

12 Q. Okay.

13 A. I didn't fully look into every aspect of the
14 search warrant. This was done by Genesee County
15 Sheriff's investigators.

16 Q. Right.

17 A. Yes, sir.

18 Q. And I'm indicating to you that you came here and
19 testified that from what you heard from this
20 investigation; correct?

21 A. Right, correct.

22 Q. And my question to you is that you didn't hear
23 from these investigators that they had an internet
24 address connecting my client to that Twitter account;
25 correct?

1 A. Correct.

2 Q. Okay. And you agree with me -- or to your
3 knowledge, do you know that Twitter can track your
4 geolocation of the user?

5 A. I believe I'm aware of that, yes.

6 Q. Okay. And no one has told you in this
7 investigation that they tracked the geolocation of my
8 client to the Twitter account that's at issue here;
9 correct?

10 A. I believe -- I'm not fully familiar with all the
11 technology aspect of it, but I think that's why we
12 uncovered that there was a VPN used because it was
13 coming back to a different address that was not like
14 relatively within New York State I think.

15 Q. So --

16 A. I don't know for sure.

17 Q. So it was an address that wasn't in New York
18 State?

19 A. I don't know.

20 Q. Okay. But it wasn't at least where you tracked
21 this Twitter account to my client based upon the
22 geolocation of my client relative to the use of that
23 Twitter account?

24 A. From my knowledge, no.

25 Q. Okay. And you are able to -- at least in your

1 expertise, do you know if you are able to track an
2 individual, meaning when they're using the Twitter
3 account you can track them and their location?

4 A. I do not know.

5 Q. But at least to your knowledge that wasn't done
6 here?

7 A. Not to my knowledge.

8 Q. Now, you indicated that there was a 911 call?

9 A. That's correct.

10 Q. Now, did anyone to your knowledge talk to that
11 person?

12 A. Um.

13 Q. Let me rephrase it. Did anyone follow up that
14 phone call and go meet with this individual?

15 A. I don't know if they've ever met with him. I
16 know law enforcement has been in contact with them
17 through a private investigator that the 911 caller has
18 hired.

19 Q. But have you met -- have law enforcement
20 identified who this person is?

21 A. To my knowledge, no.

22 Q. Do you know if they're related to I believe you
23 said the gun control advocacy group, the plaintiff
24 that was named in this lawsuit against my client?

25 A. I do not know.

1 Q. You don't know if that anonymous person was part
2 of this gun control advocacy group?

3 A. I do not know.

4 Q. And the time of this lawsuit, when was it --

5 A. I'm not sure.

6 Q. -- served?

7 A. I'm not sure on the specific date.

8 Q. You did testify though that it was served on my
9 client; correct?

10 A. Yes.

11 Q. Okay. Do you know when?

12 A. I don't know the specific date offhand.

13 Q. Was it prior to the search warrant?

14 A. Yes.

15 Q. Do you know how many days prior to the search
16 warrant?

17 A. I'm not aware.

18 Q. Do you know if it was prior to the anonymous tip
19 made to law enforcement?

20 A. The tip was made prior to the subpoena being --
21 being served -- not the subpoena, the civil papers.

22 Q. The lawsuit?

23 A. Yes.

24 Q. Within days?

25 A. Sir, I don't know.

1 Q. Well, was it within a month?

2 A. A month of what, the 911 call?

3 Q. Yeah, and the service of the civil lawsuit.

4 A. I don't want to misspeak. I think a couple of
5 months.

6 Q. Between the service of the civil lawsuit and the
7 911 call?

8 A. Yes.

9 Q. And the 911 call came prior to the service of the
10 civil lawsuit?

11 A. That's correct.

12 Q. We don't know who the 911 caller is --

13 A. That's --

14 Q. -- as you sit here today?

15 A. That is correct.

16 Q. Now, you would agree with me that it's possible
17 for individuals to break into someone's Twitter
18 account; correct?

19 A. I can't speculate on that, sir.

20 Q. Would -- to your knowledge, was anyone involved
21 in this investigation investigating whether or not
22 someone broke into this Twitter account and it was a
23 different user than what is suspected?

24 A. Not to my knowledge.

25 Q. So there was no forensic review of any of the

1 computers that were recovered from my client?

2 A. Not to my knowledge.

3 Q. And you would agree with me that a forensic
4 review of computers hard drive is the best way to
5 determine --

6 MR. INTRAVATOLA: Your Honor, I'm going to
7 object.

8 THE COURT: This is cross examination. I'll
9 allow it.

10 MR. WOLFORD: Thank you.

11 Q. -- is the best way to determine whether or not
12 that individual was posting or was using that computer
13 for whatever is being done?

14 A. I can't speculate on that. I don't know if
15 that's the best means necessary.

16 Q. You indicated on the trial -- or the hearing
17 exhibit, I'm sorry, that the gun that was depicted in
18 the photograph was not recovered in that style or
19 manner, that it was recovered in pieces; correct?

20 A. That's correct.

21 Q. And how were you able to identify those pieces
22 that were recovered that were part of this photograph?

23 A. As I stated earlier, the upper still had its
24 attachments on it. So if you look at the picture,
25 there's a fore grip on it as well as what would appear

1 to be like two green pieces on the side of the
2 firearm. I refer to those as rail scales. We
3 recovered a upper that matched that exactly.

4 Q. So it was the upper that was recovered that
5 matched the item depicted in this photograph?

6 A. Correct, and then the lower part as you can see,
7 there's a third hole right above the selector switch.

8 Q. Okay.

9 A. That would indicate that it's capable of
10 producing a fully automatic firearm.

11 Q. But that wasn't recovered with that grip; was it?

12 A. It was not, no.

13 Q. That was in a different area?

14 A. Correct.

15 Q. Was it in the house?

16 A. No. It -- the lowers were recovered from the
17 lock boxes that were recovered from Lakeshore --
18 Lakeshore and then the two other locations.

19 Q. And what were the other two locations?

20 A. Um.

21 MR. INTRAVATOLA: Your Honor, I'm going to
22 object. This is again beyond the scope of direct.

23 MR. WOLFORD: Well, no. Actually, he
24 testified about these pieces of this firearm --

25 THE COURT: I will allow it.

1 THE WITNESS: Can you say that again?

2 Q. Those other two locations that the pieces of the
3 firearm depicted in the hearing exhibit were
4 recovered?

5 A. I don't have the exact addresses on hand. One
6 was in Medina. I can -- it was at the MS location,
7 and then the other one was in -- I'm not sure, but it
8 was at the BM location.

9 Q. And you indicate that MS was an individual that
10 told law enforcement that my client was using this
11 Twitter handle; correct?

12 A. That's correct.

13 Q. And part of this firearm or this machine gun was
14 recovered in his residence or his barn or his
15 property?

16 A. That's correct.

17 Q. The video was my client -- the video of people
18 outside -- how many people were in this video?

19 A. For the -- he was firing one of the -- one of the
20 3D printed 1911 frames, test firing it.

21 Q. Right. My question was -- maybe I didn't hear
22 this correctly. It was people, the video depicted
23 people outside shooting, or was it just one person
24 outside shooting?

25 A. I may have misspoke. It was just one person.

1 Q. Okay. That person -- what part of the body of
2 that person was in the video?

3 A. It looked like it was a Go Pro attached to the
4 chest.

5 Q. So --

6 A. So his hands and his arms.

7 Q. Just hold on. I'm sorry. So a Go Pro, so the
8 camera was on the person who was firing?

9 A. Correct.

10 Q. And so the camera was projecting outward?

11 A. Correct.

12 Q. So it wasn't identifying face?

13 A. I did not see his face, no.

14 Q. Or the body?

15 A. Correct.

16 Q. Just the -- what was depicted? Hands?

17 A. Hands and arms.

18 Q. Anything else?

19 A. On the person or --

20 Q. On the video.

21 A. Are you talking about the firearm.

22 Q. No.

23 A. The firearm as well was depicted.

24 Q. Okay, but I'm talking about the person itself,
25 the body. Was it just the arms?

1 A. Arms and the hands.

2 Q. And I believe you testified that that was the
3 video that my client's wife said was him?

4 A. I can't speculate. I don't know exactly what was
5 said during the interview between Investigator DeLong
6 and the New York State Police investigator.

7 MR. WOLFORD: I have nothing further, Your
8 Honor. Thank you.

9 THE COURT: Thank you.

10 MR. INTRAVATOLA: Very briefly, Your Honor.

11 THE COURT: Yup.

12 REDIRECT EXAMINATION BY MR. INTRAVATOLA:

13 Q. Agent Nowak, I just have a few further questions
14 that are related to what you were just asked on cross
15 exam. Do you recall testifying about subscriber
16 information?

17 A. That's correct.

18 Q. Do you know if someone's real name is required
19 when applying for a Twitter account?

20 A. As far as I know, you can use a fake name.

21 Q. Have you reviewed other Twitter accounts as part
22 of your role as a federal law enforcement officer?

23 A. I have, yes.

24 Q. Do they always have correct names for subscriber
25 information?

1 A. I can't tell you.

2 Q. I noticed you paused there. Were you just trying
3 to remember?

4 A. Yeah. I'm trying to think of some other Twitter
5 extractions that I've done.

6 Q. Have you ever had subscriber information come
7 back as no subscriber?

8 A. I'm not sure.

9 Q. That's fine. It's not a memory test, and of
10 course, we noted earlier that you are simply doing
11 this off the cuff. Do you recall discussion on cross
12 exam of an anonymous caller?

13 A. Yes.

14 Q. Did law enforcement take other steps as part of
15 this investigation which corroborated what the
16 anonymous caller provided to law enforcement?

17 A. As far as?

18 Q. Well, do you recall testifying -- we kind of
19 outlined four, maybe five different ways that you tied
20 the freeman account to the defendant. Do you recall
21 that?

22 A. Yes.

23 Q. Did anything about what the anonymous caller said
24 -- which kind of kicked things off. Did anything that
25 caller said not match the other things that law

1 enforcement found regarding defendant's ties to this
2 social media account?

3 A. No. The online caller was pretty spot on with
4 what most of the witness said.

5 Q. And lastly, you just were asked on cross examine
6 about the various addresses in this case.

7 A. Correct.

8 Q. Is it fair to say you didn't have the documents
9 in front of you and this isn't a memory test for you?

10 A. Correct.

11 Q. Is it fair to say one of those locations was on
12 lakeshore road in Lyndonville, New York?

13 A. Yes.

14 Q. Was another a separate Lyndonville location?

15 A. Yes.

16 Q. And was another in Medina, New York?

17 A. Yes.

18 Q. And if you had reviewed your documents and had
19 the opportunity to do so prior to immediately
20 testifying in this detention hearing, would you have
21 been able to testify further about those locations?

22 A. Yes, I could.

23 MR. INTRAVATOLA: Your Honor, I have no
24 further questions.

25 THE COURT: Okay. I'll briefly hear from

1 both of you if you wish to anything by way of summary.

2 MR. INTRAVATOLA: Sure.

3 THE COURT: Sir, you can step down.

4 MR. INTRAVATOLA: Your Honor, I think this
5 is possibly the clearest -- and it may not be how we
6 normally do this, but this may be the clearest way to
7 ever get the mind of a law enforcement officer and the
8 steps of a law enforcement officer. I just had Agent
9 Nowak sit up there. The Court had asked him to, and
10 he sat up there with no preparation whatsoever, was
11 cross examined with no preparation whatsoever,
12 answered numerous questions with no preparation
13 whatsoever, and he walked you through, Your Honor, the
14 steps that tied this defendant to those social media
15 accounts. To my ear, I heard about five different
16 ways, maybe six. There was the anonymous call. There
17 were videos of an individual that was shooting in
18 Genesee County.

19 THE COURT: But wait a second. I just heard
20 testimony about a Go Pro video that was pointed out
21 ward. Are you talking about something else then?

22 MR. INTRAVATOLA: No, Your Honor. I'm
23 talking about that video. The individual was not
24 depicted in that video.

25 THE COURT: Right.

1 MR. INTRAVATOLA: It was from the point of
2 view. However, what was depicted was a shooting range
3 in Genesee County.

4 THE COURT: Yeah.

5 MR. INTRAVATOLA: The witness credibly
6 testified that there was a shooting range depicted in
7 the Go Pro video that was within Genesee County. That
8 was the only point I'm trying to make there. I'm not
9 saying defendant's face or anything was in that video.

10 THE COURT: Right, but that doesn't identify
11 that the defendant was the person shooting at that
12 point.

13 MR. INTRAVATOLA: No, Your Honor, but what
14 it does identify that I would submit respectfully is
15 the five various pieces of information that in fact
16 form a constellation of facts that tie this to
17 defendant, tie the social media account to defendant.

18 THE COURT: Okay.

19 MR. INTRAVATOLA: I would also note the
20 third piece of information that you heard Agent Nowak
21 testify about. There was an image of a very unique
22 AR15 from that Twitter account that was tied to
23 defendant and parts of those that matched or
24 substantially matched those pieces were found
25 disassembled when law enforcement executed the warrant

1 and the other -- the other searches of the other
2 properties.

3 You also heard information that Agent Nowak
4 learned from Officer Ryan who interviewed defendant's
5 wife further tying him to those videos which were
6 posted on the social media account ties him to social
7 media account. And lastly, you heard some testimony,
8 and I can appreciate that Agent Nowak is not a lawyer,
9 he maybe didn't know whether defendant was a plaintiff
10 or a defendant or a witness, but what he did know was
11 that defendant's name showed up in that lawsuit and it
12 wasn't just that. Defendant was tied to the freeman
13 social media account in that lawsuit, Judge.

14 And so you have this unique firearm. You
15 have these various different facts, and it's simply
16 too convenient that they all pointed defendant's
17 location in Genesee County or they would point to
18 defendant himself, and so for those reasons, I think
19 the Government has more than met its standard at this
20 preliminary stage, and the fact that Agent Nowak was
21 able to credibly sit up there with no preparation
22 whatsoever and describe that for the Court only
23 further supports what we've done here today, Judge.
24 And so for those reasons I'll submit that detention
25 remains appropriate.

1 THE COURT: Okay. Mr. Wolford?

2 MR. WOLFORD: Yes, Your Honor. I think I
3 have more questions now about the credibility of the
4 Twitter account than before the testimony. I think we
5 have all these other ways of determining whether or
6 not that was my client's Twitter account, and we
7 haven't had any proof of that, name, number, internet
8 access. We have MS who I still am questioning his
9 credibility now has possession of one part of the
10 firearms that we're talking about, and surprise,
11 surprise, MS is saying that that's my client's Twitter
12 account.

13 So my opinion is still that there has not
14 been clear and convincing evidence linking my client
15 to this account, and a civil lawsuit now is being
16 relied upon by the Government because it identifies my
17 client and an AKA of this Twitter account? That's now
18 saying that's clear and convincing evidence of the
19 link? I respectfully disagree 100% with that. And I
20 think we now have a connection with this civil lawsuit
21 and perhaps this anonymous caller.

22 So Your Honor, like I said, I don't believe
23 there's clear and convincing evidence that this
24 Twitter account is linked to my client, and for those
25 reasons, I do believe that he can be released with

1 certain conditions to alleviate any fears of -- that
2 have been mentioned by the Government. Thank you.

3 THE COURT: Okay. Excuse me. A lot about
4 this case thus far has been unusual, and what I'm
5 going to do right now is issue an interim ruling
6 giving the defendant the opportunity to further
7 explore some of the contentions that have been
8 proffered by the Government, but I -- as I indicated,
9 the allegations of the complaint itself are very
10 troubling, but compounded by this freeman1337 account
11 which if that is the defendant leads me to conclude
12 that there are no conditions or combinations of
13 conditions that would reasonably assure me that if
14 released he would not pose a risk of danger to the
15 community.

16 And I'm not going to go through everything
17 that has been proffered about the -- about the freeman
18 account in Government's Exhibits -- Court Exhibits 1
19 and 2 other than to say that it's clear that whoever
20 this individual is has a deep animus towards law
21 enforcement, and again, as I said earlier, I'm not --
22 it's not up to me to punish anybody for their views
23 about the Government or anything of the sort, but when
24 it's combined with steps which are taken to act on
25 those views, anti Government or anti law enforcement,

1 then that is very troubling.

2 At this point, I do find by clear and
3 convincing evidence that the defendant has been tied
4 to the freeman1337 account, and therefore, I find that
5 there is no condition or combination of conditions
6 that would reasonably assure that if released he would
7 not pose a risk of danger to the community. However,
8 as I said, this is an interim ruling. I'm going to be
9 particularly interested in finding out whether the
10 forensic examination of everything that was taken from
11 his home turns up any reference to this account, and
12 if that examination isn't concluded relatively
13 quickly, I may reconsider, and obviously, the results
14 of that have to be turned over to Mr. Wolford.

15 Mr. Wolford, I'm going to also give you the
16 opportunity if you wish to reopen the hearing to take
17 testimony of others. Just so you know, I don't put
18 much weight at all on the reference to a civil lawsuit
19 tying Mr. Celentano to this account because I don't
20 know whether that was naming him as a plaintiff, I
21 presume not, or naming him as a defendant or whether
22 that's merely an allegation or whether there's been
23 any proof of that. I don't even know what the case
24 is. So certainly, you are entitled to explore that
25 Mr. Wolford and apply to reopen the hearing on any of

1 those bases. But that's -- unless and until I order
2 to the contrary, that will be my ruling.

3 MR. INTRAVATOLA: Your Honor, just as a
4 piece of housekeeping. I noted that the Court said
5 once there's a forensic examination that it seemed
6 that the Court may be interested in hearing about
7 that. Was the Court more so referring to just kind of
8 the discovery process?

9 THE COURT: I'm particularly interested in
10 hearing whether any of this forensic examination
11 turned up any reference to this freeman account.

12 MR. INTRAVATOLA: Understood, Judge. I
13 guess I'm more so asking what would the mechanism be
14 for informing the Court of that?

15 THE COURT: You tell me yes, it did or no,
16 it didn't.

17 MR. INTRAVATOLA: Would there be --

18 THE COURT: I'm presuming that -- and
19 granted, we are at a complaint stage here.

20 MR. INTRAVATOLA: Sure.

21 THE COURT: And normally, you know, we don't
22 get into the extensive discovery that there would be
23 if there is an indictment. However, for purposes of
24 pre-trial detention or release, I think defendant is
25 entitled to that information. So --

1 MR. INTRAVATOLA: Sure.

2 THE COURT: -- if you say something was
3 turned up, I think it should be provided to the
4 defendant, and if you say nothing was turned up,
5 that -- that speaks volumes as well.

6 MR. INTRAVATOLA: Understood, Judge, and the
7 Government is familiar with its discovery obligations
8 and will of course comply with them. Just for clarity
9 sake, what -- at what point -- is there a timetable
10 that the Court would require or should we just provide
11 that information on a rolling basis as we receive it?
12 Because of course it's still a developing
13 investigation.

14 THE COURT: Right, but I think you should
15 provide it on a rolling basis as you receive it. And
16 also the -- there was testimony -- and granted, you
17 can rely on hearsay evidence in a detention hearing,
18 but there was testimony about what the defendant's
19 wife may have said to another law enforcement officer.
20 Mr. Wolford, you're certainly entitled to explore that
21 as well and call another witness if you want. But for
22 now that's my ruling. Okay?

23 MR. INTRAVATOLA: Understood, Judge.

24 MR. WOLFORD: Note our exception, Your
25 Honor.

1 THE COURT: Pardon?

2 MR. WOLFORD: Note our exception to the
3 ruling.

4 THE COURT: It's noted, and you certainly
5 can seek review by a District Judge if you wish.

6 MR. WOLFORD: Thank you, Your Honor.

7 THE COURT: All right. So I already last
8 week gave the Government its admonishment about its
9 Brady obligations and those may come to play here as
10 well depending on what you find. So then we need
11 to -- oh. Mr. Wolford, you had reserved on a
12 preliminary hearing.

13 MR. WOLFORD: Correct, Your Honor. I'm
14 going to respectfully keep that reservation at this
15 time.

16 THE COURT: Okay. Then we need to -- I
17 guess the remaining issue is to decide on the --
18 excuse me -- a dismissal date without prejudice.

19 MR. INTRAVATOLA: Yes, Judge.

20 THE COURT: Because you know, counsel, I
21 normally select a date 90 days out. Does that work
22 for everybody?

23 MR. INTRAVATOLA: That works for the
24 Government, Judge.

25 THE COURT: Mr. Wolford?

1 MR. WOLFORD: That's fine, Your Honor.

2 THE COURT: Okay. So today is October 21,
3 and pursuant to Rule 48B of the Federal Rules of
4 Criminal Procedure, the complaint will automatically
5 be dismissed without prejudice at noon on Tuesday,
6 January 21, 2025. Do you wish to be heard as to the
7 speedy trial act between now and that date?

8 MR. INTRAVATOLA: Yes, Your Honor. The
9 Government would move to exclude the time between
10 today up to and including January 21 of 2025 pursuant
11 to 18 United States Code Section 3161(h) (7) (a) and
12 (h) (7) (b) (4), in that it's the Government's position
13 that the ends of justice served by taking such action
14 outweigh the best interest of the public and the
15 defendant in a speedy trial because with this time the
16 Government will provide discovery and continue to
17 collect it as the investigation unfolds. Defendant
18 can review this discovery with defense counsel.
19 Defendant can receive effective assistance of counsel
20 and pre-trial negotiations can take place.

21 THE COURT: Any objection?

22 MR. WOLFORD: No. I would join in that
23 request Your Honor.

24 THE COURT: All right. I'll adopt counsel's
25 representations as my findings concerning the

1 exclusion of time between today and January 21, 2025
2 from the speedy trial act calendar. For the reasons
3 stated by counsel, I find that the ends of justice
4 served by granting of the continuance outweigh the
5 best interest of the public and the defendant in a
6 speedy trial. Thank you.

7 MR. INTRAVATOLA: Thanks, Your Honor.

8 THE COURT: Have a good evening.

9 MR. WOLFORD: Thank you, Your Honor.

10 (Proceeding concluded at 3:31 p.m.)
11

12 **CERTIFICATE OF COURT REPORTER**
13

14 I certify that this is a true and accurate
15 record of proceedings in the United States District
16 Court for the Western District of New York before the
17 Honorable Jeremiah J. McCarthy on October 21, 2024.
18

19 S/ Brandi A. Wilkins

20 Brandi A. Wilkins

21 Official Court Reporter
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23
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